

ATTACHMENT - CLAIMS LISTING

This listing of claims will replace all prior versions, and listings, of claims in this application. Please amend the claims by cancelling claims 1, 10-26, 30, 31 and 39-74 and adding new claims 75-88, as follows:

1-74. (Cancelled).

75. (New) A combination instrument and an intervertebral implant for at least partial insertion into an intervertebral space between an upper vertebra having an upper vertebral surface and a lower vertebra having a lower vertebral surface, the combination instrument and intervertebral implant comprising:

- an upper part having an upper surface engagable with the upper vertebral surface, a concave spherical portion and an upper raised keel having an upper keel width;

- a lower part having a lower surface engagable with the lower vertebral surface, an upper convex surface and a lower raised keel having a lower keel width, the concave spherical portion mating with the upper convex surface in an assembled configuration;

- an upper arm having an upper forward end with an upper forward arm width; and

- a lower arm having a lower forward end with a lower forward arm width, the upper arm movably mounted to the lower arm to selectively engage the upper and lower parts, the upper keel width being greater than the upper forward arm width and the lower keel width being greater than the lower forward arm width.

76. (New) The combination instrument and intervertebral implant of claim 75, further comprising:

a spacer tube mounted between the upper and lower arms and having an open end proximate the upper and lower forward ends; and

a spacer having a head and a shaft, the shaft removably secured in the spacer tube and the head positioned proximate the open end.

77. (New) The combination instrument and intervertebral implant of claim 75, wherein the upper forward end includes an upper projection extending toward the lower forward end and the lower forward end includes a lower projection extending toward the upper forward end, the upper part including an upper recess and the lower part including a lower recess, the upper projection releasably engageable with the upper recess and the lower projection releasably engageable with the lower recess.

78. (New) The combination instrument and intervertebral implant of claim 77, wherein the upper recess is formed in the upper raised keel and the lower recess is formed in the lower raised keel.

79. (New) The combination instrument and intervertebral implant of claim 75, further comprising:

a spacer having a head and a shaft, the spacer mounted between the upper and lower arms, the shaft positioned generally parallel to the upper and lower arms and the head positioned proximate the upper and lower forward ends.

80. (New) The combination instrument and intervertebral implant of claim 79, further comprising:

an upper spacer engaging member extending from the upper arm toward the lower arm; and

a lower spacer engaging member extending from the lower arm toward the upper arm, the upper and lower spacer engaging members engaging the spacer and the upper and lower forward ends engaging the upper and lower surfaces, respectively, in an insertion configuration.

81. (New) The combination instrument and intervertebral implant of claim 75, wherein the lower part includes a plastic inlay, the upper convex surface formed on the plastic inlay.

82. (New) The combination instrument and intervertebral implant of claim 75, wherein the upper and lower arms are mounted to each other at a common pivot point.

83. (New) The combination instrument and intervertebral implant of claim 82, further comprising:

a securing nut mounting the upper arm to the lower arm in an area of the common pivot point.

84. (New) The combination instrument and intervertebral implant of claim 75, further comprising:

a spacer having a head and a resilient shaft, the spacer removably mountable between the upper and lower arms, the head including an upper projection extending toward the upper arm and a lower projection extending toward the lower arm.

85. (New) The combination instrument and intervertebral implant of claim 75, further comprising:

a first spacer removably mountable between the upper and lower arms; and
a second spacer removably mountable between the upper and lower arms, the first spacer having a different size than the second spacer.

86. (New) The combination instrument and intervertebral implant of claim 75, wherein the upper arm includes an upper grip portion opposite the upper forward end and the lower arm includes a lower grip portion opposite the lower forward end, ridges formed on the upper and lower arms proximate the upper and lower grip portions to selectively lock the upper arm relative to the lower arm.

87. (New) The combination instrument and intervertebral implant of claim 86, wherein the upper and lower grip portions are comprised of cylindrical thumb/finger grip portions formed at ends of the upper and lower arms opposite the upper and lower forward ends, respectively.

88. (New) The combination instrument and intervertebral implant of claim 75, wherein the upper arm has an upper grip portion opposite the upper forward end and the lower arm has a lower grip portion opposite the lower forward end.